

Article - Public Safety

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§13A-714.

(a) At any time after charges have been signed as provided in § 13A-601 of this title, any party may take oral or written depositions unless the military judge or summary court-martial officer hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause.

(b) The party at whose insistence a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the State or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken on reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, digital image or file, or similar material, may be played in evidence before any military court, if it appears:

(1) that the witness resides or is beyond the State in which the court is ordered to sit, or beyond 100 miles from the place of trial or hearing;

(2) that the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) that the present whereabouts of the witness are unknown.

(e) (1) Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under § 13A-506 of this title.

(2) The accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel are provided for in § 13A-703 of this subtitle.

(f) A deposition order under subsection (a) of this section does not control the admissibility of the deposition in a court-martial or other proceeding under this title.

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